

manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

3.18 Indemnification and Hold Harmless

3.18.1 The Contractor covenants and agrees to indemnify and hold harmless Monroe County and Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the Contractor or any of its subcontractors in any tier, occasioned by the negligence or the wrongful act or omission of the Contractor or its subcontractors in any tier, their employees, or agents. The first ten dollars (\$10.00) of remuneration paid to the Contractor is for the indemnification provided for the above. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

ARTICLE 4

ADMINISTRATION OF THE CONTACT

4.1 Architect

4.1.1 The Architect is the person lawfully licensed to practice architecture or any entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

4.2 Construction Manager

4.2.1 The Construction Manager is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Construction Manager" means the Construction Manager or the Construction Manager's authorized representative.

4.3 Duties, responsibilities and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Construction Manager, Architect and Contractor. Consent shall not be unreasonably withheld.

4.4 In case of termination of employment of the Construction Manager or Architect, the Owner shall appoint a construction manager or architect against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of the former construction manager or architect, respectively.

4.6 Administration of the Contract

4.6.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representatives (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Construction Manager and Architect will advise and consult with the Owner and will have authority to act on behalf of the

Owner only to the extent provided in the Contract Document, unless otherwise modified by written instrument in accordance with other provision of the Contract.

4.6.2 The Construction Manager will determine in general that the Work is being performed in accordance with the requirements of the Contract Documents, will keep the Owner informed of the progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

4.6.3 The Construction Manager will provide for coordination of the activities of other Contractors and of the Owner's own forces with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other Contractors and Construction Manager and Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the Construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall constitute the schedules to be used by the Contractor, other Contractors, the Construction Manager and the Owner until subsequently revised.

4.6.5 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous onsite inspections to check quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the work.

4.6.6 The Construction Manager, except to the extent required by Architect will not have control over or charge of and will not be responsible for construction means, method, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3, and neither will be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of or be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.6.7 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall communicate through the Construction Manager, and shall contemporaneously provide the same communications to the Architect. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with other Contractors shall be through the Construction Manager and shall be contemporaneously provided to the Architect.

4.6.8 The Architect will review and certify all Applications for Payment by the Contractor, including final payment. The Architect will assemble each of the Contractor's Applications for Payment with similar Applications from other Contractor into a Project Application and Project Certificate for Payment. After reviewing and certifying the amounts due the Contractors, the Architect will submit the Project Application and Project Certificate for Payment, along with the applicable Contractors' Applications and Certificates for Payment, to the Construction Manager.

4.6.9 Based on the Architect's observations and evaluations of Contractors' Applications for Payment, and the certifications of the Construction Manager, the Architect will review and certify the amounts due the Contractors and will issue a Project Certificate for Payment.

4.6.10 The Architect will have authority to reject Work which does not conform to the Contract Documents, and to require additional inspection or testing, in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed, but will take such action only after notifying the Construction Manager. Subject to review by the Architect, the Construction Manager will have the authority to reject Work which does not conform to the Contract Documents. Whenever the Construction Manager considers it necessary or advisable for implementation of the intent of the Contract Documents, the Construction Manager will have authority to require additional inspection or testing of the work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. The foregoing authority of the Construction Manager will be subject to the provisions of Subparagraphs 4.6.18 through 4.6.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor the Construction Manager's authority to act under this Subparagraph 4.6.10 nor a decision made by either of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect or the Construction Manager to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing any of the Work.

4.6.11 The Architect will receive from the Contractor and review and approve all Shop Drawings, Product Data and Samples, coordinate them with information received from other Contractors, and transmit to the Construction Manager those recommended for approval. The Architect's actions will be taken with such reasonable promptness as to cause no delay in the Work of the Contractor or in the activities of other Contractors or the Owner.

4.6.12 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such promptness consistent with the constraints of the project schedule so as to cause no delay in the Work of the Contractor or in the activities of the other Contractors, the Owner, or the Construction Manager, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.6.13 The Construction Manager will prepare Change Orders and Construction Change Directives.

4.6.14 Following consultation with the Construction Manager, the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7 and will have authority to order minor changes in the Work as provided in Paragraph 7.4.

4.6.16 The Contractor will assist the Architect in conducting inspections to determine the dates of Substantial completion and final completion, and will receive and forward to the Architect written warranties and related documents required by the Contract and assembled by the Contractor. The Architect will forward to the Construction Manager a final Project Application and Project Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.6.17 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

4.6.18 The Architect will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of the Construction Manager, Owner or Contractor. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.6, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

4.6.19 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

4.6.20 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

4.7 Claims and Disputes

4.7.1 **Definition.** A Claim is demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the claim.

4.7.2 **Decision of Architect.** Claims, including those alleging an error or omission by the Construction Manager or Architect, shall be referred initially to the Architect for action as provided in Paragraph 4.8. A decision by the Architect, as provided in Subparagraph 4.8.4, shall be required as a condition precedent to litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to litigation in the event (1) the position of Architect is vacant, (2) The Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 4.8.4 within 30 days after the Claim is made, (4) 45 days have passed after the Claim has been referred to the Architect or (5) the Claim relates to a mechanic's lien.

4.7.3 **Time Limits on Claims.** Claims by either party must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.7.4 **Continuing Contract Performance.** Pending final resolution of a Claim unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.7.5 Waiver of Claims: Final Payment. The making of final payment shall constitute a waiver of Claim by the Owner except those arising from:

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

4.7.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend and equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for determination, pursuant to Paragraph 4.8.

4.7.7 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) Not Applicable (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.

4.7.8 Claims for Additional Time.

4.7.8.1. If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given.

4.7.8.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.7.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost

or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.7.7 or 4.7.8.

4.8 Resolution of Claims and Disputes

4.8.1 The Architect will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

4.8.2 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

4.8.3 If a Claim has not been resolved, the party making the Claim shall, within ten days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim or (3) notify the Architect that the initial Claim stands.

4.8.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven days, which decision shall be final and binding on the parties. Upon expiration of such time period, the Architect will render to the parties the Architect's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

ARTICLE 5

SUBCONTRACTORS

5.1 Definitions

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include other Contractors or subcontractors of other Contractors.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 Award of Subcontracts and Other Contracts for Portions of the Work

5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Construction Manager for review by the Owner, Construction Manager and Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Construction Manager will promptly reply to the Contractor in writing stating whether or not the Owner, Construction Manager or Architect, after due investigation, has reasonable objection to any such proposed

person or entity. Failure of the Construction Manager to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Owner, Construction Manager, or Architect has made reasonable objection.

5.2.3 If the Owner or Construction Manager refuses to accept any person or entity on a list submitted by the Contractor in response to the requirements of the Contract Documents, the Contractor shall submit an acceptable substitute; however, no increase in the Contract Sum shall be allowed for any such substitution.

5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such change.

5.3 Subcontractual Relations

5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. When appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, copies of the Contract Documents which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.4 Contingent Assignment of Subcontracts

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under public construction bond covering the Contract.

5.4.2 If the work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.

ARTICLE 6

CONSTRUCTION BY OWNER OR BY OTHER CONTRACTORS

6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts

6.1.1 The Owner reserves the right to perform construction or operations released to the Project with the Owner's own forces, which include persons or entities under separate contracts

not administered by the Construction Manager. The Owner further reserves the right to award other contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver or subrogation.

6.1.2 When the Owner performs construction or operations with the Owner's own forces including persons or entities under separate contracts not administered by the Construction Manager, the Owner shall provide for coordination of such forces with the Work of the Contractor who shall cooperate with them.

6.1.3 It shall be the responsibility of the Contractor to coordinate his work with the work of other contractors on the site. The Owner and Construction Manager shall be held harmless of any and all costs associated with improper coordination.

6.2 Mutual Responsibility

6.2.1 The Contractor shall afford the Owner's own forces, Construction Manager and other Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Construction Manager and Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's own forces or other Contractors' completed or partially completed or partial completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or other Contractors as provided in Subparagraph 10.2.5.

6.2.5 Claims and other disputes and matters in question between the Contractor and other Contractors shall be subject to the provisions of Paragraph 4.7 provided the other Contractors have reciprocal obligations.

6.2.6 The Owner and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

6.2.7 Should the Contractor contend that he is entitled to an extension of time for completion of any portion or portions of the work, he shall, within (72) hours of the occurrence of the cause of the delay, notify the Construction Manager in writing, of his contention: setting forth (A) the cause for the delay, (B) a description of the portion or portions of work affected thereby, and (C) all details pertinent thereto. A subsequent written application for the specific number of days of extension of time requested shall be made by the Contractor to the Construction Manager within (72) hours after the delay has ceased to exist.

.1 It is a condition precedent to the consideration or prosecution of any claim for an extension of time that the foregoing provisions be strictly adhered to in each instance and, if the Contractor fails to comply, he shall be deemed to have waived the claim.

.2 The Contractor agrees that whether or not any delay, regardless of cause, shall be the basis for an extension of time he shall have no claim against the Owner or Construction Manager for an increase in the Contract price, nor a claim against the Owner or Construction Manager for a payment or allowance of any kind for damage, loss or expense resulting from delays; nor shall the Contractor have any claim for damage, loss or expense resulting from interruptions to, or suspension of, his work to enable other contractors to perform their work. The only remedy available to the Contractor shall be an extension of time.

6.3 Owner's Right to Clean Up

6.3.1 If a dispute arises among the Contractor, other Contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Construction Manager, in consultation with the Architect, determines to be just.

ARTICLE 7

CHANGES IN THE WORK

7.1 Changes

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor; a Construction Change Directive require agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

7.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

7.2 Change Orders

7.2.1 A change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect and Contractor, stating their agreement upon all of the following:

- .1 a change in the Work;
- .2 the amount of the adjustment in the Contract Sum, if any; and
- .3 the extent of the adjustment in the Contract Time, if any.

7.2.2 The cost or credit to the owner resulting from a change in the Work shall be determined in one or more of the following:

- .1 mutual acceptance of lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 unit prices stated in the Contract Documents or subsequently agrees upon;
- .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee;
- .4 or by method provided in subparagraph 7.2.3.

7.2.3 If none of the methods set forth in Clauses 7.2.1 or 7.2.2 is agreed upon, the Contractor, provided a written order signed by the Owner or Construction Manager is received, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by daily force accounts in a form acceptable to the Owner and Construction Manager. The daily force account forms shall identify Contractor and /or Subcontractor personnel by name, total hours for each man, each piece of equipment and total hours for equipment and all material(s) by type for each extra Work activity claim. Each daily force account form shall be signed by the designated Construction Manager's representative no later than the close of business on the day the Work is performed to verify the items and hours listed. Extended pricing of these forms shall be submitted to the Construction Manager with all supporting documentation required by the Construction Manager for inclusion into a change order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; works' or workmen's compensation insurance; and the rental value of equipment and machinery. Markups for overhead and profit will be in accordance with subparagraph 7.2.4. Pending final determination of cost, payments on account shall be made as determined by the Construction Manager. The amount of credit to be allowed by the Contractor for any deletion or change, which results in a net decrease in the Contract Sum, will be the amount of the actual net cost as confirmed by the Construction Manager. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any with respect to that change.

7.2.4 The actual cost of Changes in the Work may include all items of labor or material, power tools, and equipment actually used, utilities, pro rata charges for foreman, and all payroll charges such as Public Liability and Workmen's Compensation Insurance. No percentage for overhead and profit shall be allowed on items of Social Security and Sales Tax. If deductions are ordered the credit shall be the net cost. Items considered as overhead shall include insurance other than that mentioned above, bond or bonds, superintendent, timekeeper, clerks, watchmen, use of small tools, miscellaneous supplies, incidental job costs, warranties, and all general home/field office expenses. The actual cost of Changes in the Work (other than those covered by unit prices set forth in the Contract Documents) shall be computed as follows:

- .1 if the Contractor performs the actual Work, the maximum percentage mark-up for overhead shall be five percent (5%) and the maximum percentage for profit shall be five percent (5%);
- .2 if the Subcontractor performs the actual Work, the percentage mark-up for overhead and profit shall be a maximum addition of ten percent (10%). If the Contractor does not perform the Work, the maximum mark-up for managing this Work will be five percent (5%);
- .3 if the Subcontractor performs part of the actual Work, his percentage mark-up for overhead and profit shall be a maximum addition of then percent (10%) on his direct Work only.

If the Contractor performs part of the actual Work, his percentage mark-up for overhead and profit shall be a maximum addition of ten percent (10%) on his direct Work only.

7.2.5 The Contractor shall furnish to the Owner through the Construction Manager, an itemized breakdown of the quantities and prices used in computing the value of any change that might be ordered. Any additional supporting documentation requested by the Construction Manager such as certified quotations or invoices shall be provided by the Contractor to the Construction Manager at no additional cost to the Owner.

7.2.6 If the Contractor claims that any instructions given to him by the Construction Manager, by drawings or otherwise, involve extra Work not covered by the Contract, he shall give the Construction Manager written notice thereof within five (5) days after the receipt of such instructions and before proceeding to execute the work, except in emergencies endangering life or property, in which case the Contractor shall proceed in accordance with Paragraph 10.3.

.1 The written notice to the Construction Manager for the Extra Work shall include a complete description of the extra Work, the total cost and a detailed cost breakdown by labor, material and equipment for each additional activity required to be performed. Mark-ups shall be limited as specified elsewhere in this Article.

.2 Except as otherwise specifically provided, no claim for additional cost shall be allowed unless the complete notice specified by this subparagraph is given by the Contractor.

7.2.7 Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any dispute or claim proceeding, and Owner shall continue to make payments to the Contractor in accordance with the Contract Documents. Disputes unresolved shall be settled in accordance with subparagraph 4.8.5. The Contractor shall maintain completed daily force account forms in accordance with subparagraph 7.2.3 for any dispute or claim item.

7.4 Authority

7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order issued through the Construction Manager and shall be binding on the Owner and Contractor. The Contractor shall carry out such written order promptly.

ARTICLE 8

TIME

8.1 Definitions

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.1.5 The Owner/Construction Manager shall be the final judge as to whether Substantial Completion has been achieved and certifies the date to the Contractor and Architect.

8.2 Progress and Completion

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance.

8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 Delays and Extensions of Time

8.3.1 If the Contractor is delayed, at any time, in the progress of the Work by any act or neglect of the Owner, Construction Manager, or the Architect/Engineer, or by any employee of either, or by any separate contractor employed by the Owner, or by changes ordered in the Work, or by fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Owner, Construction Manager, or by any other cause which the Construction Manager determines may justify the delay, then the Contract Time shall be extended by no cost Change Order for such reasonable time as the Construction Manager may determine, in accordance with subparagraph 6.2.7.

8.3.2 Any claim for extension of time shall be made in writing to the Construction Manager not more than seventy-two (72) hours after the commencement of the delay in accordance with paragraph 6.2.7; otherwise it shall be waived. Any claim for extension of time shall state the cause of the delay and the number of days of extension requested. If the cause of the delay is continuing, only one claim is necessary, but the Contractor shall report the termination of the cause for the delay within seventy-two (72) hours after such termination in accordance with paragraph 6.2.7; otherwise, any claim for extension of time based upon that cause shall be waived.

8.3.3 No claim for an increase in the Contract Sum for either acceleration or delay will be allowed for extensions of time pursuant to this Paragraph 8.3 or for other changes in the Construction Schedules.

8.3.4 If the Project is delayed as a result of the Contractor's refusal or failure to begin the Work on the date of commencement as defined in Paragraph 8.1.2, or his refusal or failure to carry the Work forward expeditiously with adequate forces, the Contractor causing the delay shall be liable, but not limited to, delay claims from other Contractors which are affected.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 Contract Sum

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.2 Schedule of Values

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect, through the Construction Manager, a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 Applications for Payment

9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Construction Manager an itemized Application for Payment for Work completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner, Construction Manager or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents.

.1 Such applications may include request for payment on account of changes in the Work which have been properly authorized by Construction Change Directives but not yet included in Change Orders.

.2 Such applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. All Subcontractors and Sub-subcontractors shall execute an agreement stating that title will so pass, upon their receipt of payment from the Contractor. The warranties are for the administrative convenience of the Owner only and do not create an obligation on the part of the Owner to pay directly any unpaid subcontractor, laborer or materialmen. Such persons must seek payment from the Contractor or his public construction bond surety only.

9.4 Certificate for Payment

9.4.1 The Construction Manager will assemble a Project Application for Payment by combining the Contractor's applications with similar applications for progress payments from other Contractors and, after certifying the amounts due on such applications, forward them to the Architect within seven days.

9.4.2 Within seven days after the Architect's receipt of the Project Application for Payment, the Construction Manager and Architect will either issue to the Owner a Project Certificate for Payment, with a copy to the Contractor, for such amount as the Construction Manager and Architect determine is properly due, or notify the Contractor and Owner in writing of the Construction Manager's and Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1. Such notification will be forwarded to the Contractor by the Construction Manager.

9.4.3 The issuance of a separate Certificate for Payment or a Project Certificate for Payment will constitute representations made separately by the Construction Manager and Architect to the Owner, based on their individual observations at the site and the data comprising the Application for Payment submitted by the Contractor, that the Work has progressed to the point indicated and that, to the best of the Construction Manager's and Architect's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Construction Manager or Architect. The issuance of a separate Certificate for Payment or a Project Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a separate Certificate for Payment or a Project Certificate for Payment will not be a representation that the Construction Manager or Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed the Contractor's construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

9.5 Decisions to Withhold Certification

9.5.1 The Construction Manager/Architect may decline to approve an Application for Payment if, in his opinion, the application is not adequately supported. If the Contractor and Construction Manager cannot agree on a revised amount, the Construction Manager shall process the Application for the amount he deems appropriate. The Construction Manager may also decline to approve any Application for Payment or, because of subsequently discovered evidence or subsequent inspections, he may nullify, in whole or part, any approval previously made to such extent as may be necessary in his opinion because of: (1) defective Work not remedied; (2) third party claims filed or reasonable evidence indicating probable filing of such claims; (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment; (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum; (5) damage to the Construction Manager, the Owner, or another contractor working at the project; (6) reasonable evidence that the Work will not be completed within the contract time; (7) persistent failure to carry out the Work in accordance with the Contract Documents.

.1 No payment shall be made to the Contractor until certificates of insurance or other evidence of compliance by the Contractor, within all the requirements of Article 11, have been filed with the Owner and Construction Manager.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 Progress Payments

9.6.1 After the Construction Manager and Architect have issued a Project Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Construction Manager and Architect. From the total of the amount determined to be payable on a progress payment, ten percent (10%) of such total amount will be deducted and retained by the Owner until final payment is made. The balance ninety percent (90%) of the amount payable, less all previous payments, shall be certified for payment.

.1 It is understood and agreed that the Contractor shall not be entitled to demand or receive progress payment based on quantities of Work in excess of those provided in the proposal or covered by approved change orders, except when such excess quantities have been determined by the Construction Manager to be a part of the final quantity for the item of Work in question.

.2 No progress payment shall bind the Owner to the acceptance of any materials or Work in place, as to quality or quantity. All progress payments are subject to correction at the time of final payments.

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

9.6.3 The Construction Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Owner, Construction Manager and Architect on account of portions of the Work done by such Subcontractor.

9.6.4 Neither the Owner, Construction Manager nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

9.6.7 All material and work covered by partial payments made shall thereupon become the sole property of the Owner, and by this provision shall not be construed as relieving the Contractor from the sole responsibility for the materials and Work upon which payments have been made or the restoration for any damaged material, or as a waiver to the right of the Owner or Construction Manager to require the fulfillment of all the terms of the Contract.

9.6.8 Except in case of bona fide disputes, or where the Contractor has some other justifiable reason for delay, the Contractor shall pay for all transportation and utility services not later than the end of the calendar month following that in which services are rendered and for all materials, tools, and other expendable equipment which are delivered at the site of the Project. The Contractor shall pay to each of his Subcontractors, not later than the end of the calendar month in which each payment is made to the Contractor, the representative amount allowed the Contractor on account of the Work performed by is Subcontractor interest therein. The Contractor shall, by an appropriate agreement with each Subcontractor, also require each Subcontractor to make payments to his suppliers and Sub-subcontractors in a similar manner.

9.8 Substantial Completion

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor and Construction Manager shall jointly prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the list, the Architect, assisted by the Construction Manager, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect, assisted by the Construction Manager, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

9.8.3 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Construction Manager and Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

9.9 Partial Occupancy or Use

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.3.1 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for

correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor and Construction Manager shall jointly prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect after consultation with the Construction Manager.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Construction Manager, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.10 Final Completion and Final Payment

9.10.1 Upon completion of the Work, the Contractor shall forward to the Construction Manager a written notice that the Work is ready for final inspection and acceptance and shall also forward to the Construction Manager a final Contractor's Application for Payment. Upon receipt, the Construction Manager will forward the notice and Application to the Architect who will promptly make such inspection. When the Architect, based on the recommendation of the Construction Manager, finds the Work acceptable under the Contract Documents and the Contract fully performed, the Construction Manager and Architect will promptly issue a final Certificate for Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Construction Manager's and Architect's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect through the Construction Manager (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payments currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, if a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien.

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Construction Manager and Architect so confirm, the Owner shall, upon application by the Contractor and certification by the Construction Manager and Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed or corrected is less than retainage stipulated in the Contract Documents, and if

bond have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect through the Construction Manager prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims by the Owner as provided in Subparagraph 4.7.5.

9.10.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described Subparagraph 4.7.5.

9.11 Payment of Subcontractors

9.11.1 Any requirement of this Article 9 that the Contractor furnish proof to the Owner, Architect or Construction Manager that the subcontractors and materialmen have been paid is for the protection and convenience of the Owner only. Unpaid subcontractors and materialmen may only seek payment from the Contractor and the surety that provided the Contractor's Public Construction Bond. The Contractor must insert this paragraph 9.11 in all its contracts with subcontractors and materialmen.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 Safety Precautions and Programs

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall submit the Contractor's safety program to the Construction Manager for review and coordination with the safety programs of other Contractors.

10.1.2 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner, Construction Manager and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor, or in accordance with final determination by the Architect.

10.1.3 The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB).

10.1.5 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner, Construction Manager and Architect in writing. The Owner, Contractor, Construction Manager and Architect shall then proceed in the same manner described in Subparagraph 10.1.2.

10.1.6 The Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered

harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor, Construction Manager and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor, the Construction Manager and the Architect will promptly reply to the Owner in writing stating whether or not any of them has reasonable objection to the persons or entities proposed by the Owner. If the Contractor, Construction Manager or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor, the Construction Manager and the Architect have no reasonable objection.

10.2 Safety of Persons and Property

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors;
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
- .4 construction or operations by the Owner or other Contractors.

10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of property qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss to property referred to in Clauses 10.2.1.2, 10.2.1.3, 10.2.1.4 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2, 10.2.1.3 and 10.2.1.4, except damage or loss attributable to acts or omissions of the Owner, Construction Manager or Architect or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner, Construction Manager and Architect.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 Emergencies

10.3.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.7 and Article 7.

ARTICLE 11

INSURANCE AND BONDS

11.1.1 Prior to commencement of Work governed by this contract (including the prestaging of personnel and material), the Contractor shall obtain, at their own expense, insurance as specified in the attached schedules, which are made part of this Agreement. The Contractor will ensure that the insurance obtained will extend protection to all subcontractors engaged by the Contractor. As an alternative the Contractor may require all subcontractors to obtain insurance consistent with the attached schedules.

11.1.2 The Contractor will not be permitted to commence Work governed by the Agreement (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the County as specified below. Delays in the commencement of Work resulting from the failure of the Contractor to provide satisfactory evidence of the required insurance shall not extend deadlines specified in this Agreement and any penalties and failure to perform assessments shall be imposed as if the Work commenced on the specified date and time, except for the Contractor's failure to provide satisfactory evidence.

11.1.3 The Contractor shall maintain the required insurance throughout the entire term of this contract and any extensions specified in any attached schedules. Failure to comply with this provision may result in the immediate suspension of all Work until the required insurance has been reinstated or replaced. Delays in the completion of Work resulting from the failure of the Contractor to maintain the required insurance shall not extend deadlines specified in this Agreement and any penalties and failure to perform assessments shall be imposed as if the Work commenced on the specified date and time, except for the Contractor's failure to provide satisfactory evidence.

11.1.4 The Contractor shall provide, to the County in care of the Construction Manager, as satisfactory evidence of the required insurance, either:

Certificate of Insurance

or

A certified copy of the actual insurance policy

11.1.5 The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this Contract.

11.1.6 All insurance policies must specify that they are not subject to cancellation, nonrenewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

11.1.7 The acceptance and/or approval of the Contractor's insurance shall not be construed as relieving the Contractor from any liability or obligation assumed under this contract or imposed by law.

11.1.8 The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies, except for Worker's Compensation.

11.1.9 In addition, the County will be named as an additional insured and loss payee on all policies covering County -owned property.

11.1.10 Any deviations from these General Insurance Requirements must be requested in writing on the County prepared form entitled "Request for Waiver of Insurance Requirements" and approved by the Monroe County's Risk Manager.

11.2 Builder's Risk Insurance

11.2.1 Throughout the term of the Contract, the Contractor shall purchase and maintain Builder's Risk Insurance on All Risk Loss Form. Coverage shall include: Theft, Windstorm, Hail, Explosion, Riot, Civil Commotion, Aircraft, Vehicles, Smoke, Fire, Collapse and Floods. However, the only items required from the previous list, are defined in Section 00400, Insurance Requirements and Coverages. The policy limits shall be no less than the amount of the finished project and coverage shall be provided on a completed value basis. The completed value is defined as all material, labor, supplies, and equipment intended to be incorporated in and to become a permanent part of the completed facility. The facility as defined for this paragraph includes structures as defined in the contract drawings and specifications. Property located on the construction premises, which is intended to become a permanent part of the building, shall be included as property covered. The policy shall be endorsed permitting the County to occupy the building prior to completion without effecting the coverage.

11.3 Public Construction Bond

11.3.1 The Owner shall require the Contractor to furnish a Public Construction Bond in the form provided by the Owner in this section as a guarantee for the faithful performance of the Contract (including guarantee and maintenance provisions) and the payment of all obligations arising thereunder. The Public Construction Bond shall be in an amount at least equal to the contract price. This contract is subject to the provisions of Section 255.05, Florida Statutes, which are incorporated herein.

ARTICLE 12

UNCOVERING AND CORRECTION OF WORK

12.1 Uncovering of Work

12.1.1 If a portion of the Work is covered contrary to the Construction Manager's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by either, be uncovered for their observation and be replaced at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the Construction Manager or Architect has not specifically requested to observe prior to its being covered, the Construction Manager or Architect may request to see such Work and it shall be uncovered by the Contractor, if such Work is in accordance with the Contract Documents, costs of uncovering and replacement

shall, by appropriate Change Order, be charged to the Owner, if such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or one of the other Contractors in which event the Owner shall be responsible for payment of such costs.

12.2 Correction of Work

12.2.1 The Contractor shall promptly correct Work rejected by the Construction Manager or Architect or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Construction Manager's and Architect's services and expenses made necessary thereby.

12.2.2 If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Subparagraph 9.9, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2 shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect issued through the Construction Manager, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense, if the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, if such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or other Contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Subparagraph 12.2.2, relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to

establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.3 Acceptance of Nonconforming Work

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13

MISCELLANEOUS PROVISION

13.1 Governing Law

13.1.1 The contract shall be governed by the laws of the State of Florida. Venue for any claims or disputes arising under this contract shall be in the Circuit Court of the 16th Judicial Circuit of the State of Florida.

13.2 Successors and Assigns

13.2.1 The Owner or Construction Manager (as the case may be) and the Contractor each binds himself, his partners, successors, assigns, and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other.

13.2.2 The Contractor shall not assign any monies due or to become due under this Contract without prior written consent of the Owner or Construction Manager.

13.3 Written Notice

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

13.3.2 All written correspondence to the Construction Manager shall be serialized, dated, and signed by an authorized representative of the Contractor. The correspondence shall be directed to:

Stephanie Coffey
Monroe County Construction Management Department
1100 Simonton Street
Room 2-216
Key West, Florida 33040

or hand delivered to the Construction Manager's office.

13.4 Rights and Remedies

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Construction Manager, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 Tests and Inspections

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Construction Manager and Architect timely notice of when and where tests and inspections are to be made so the Construction Manager and Architect may observe such procedures. The Owner shall bear costs of test, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

13.5.2 If the Construction Manager, Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Construction Manager and Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Construction Manager and Architect of when and where tests and inspections are to be made so the Construction Manager and Architect may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 13.5.3.

13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Construction Manager's and Architect's services and expenses.

13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Construction Manager for transmittal to the Architect.

13.5.5 If the Construction Manager or Architect is to observe tests, inspections or approvals required by the Contract Documents, the Construction Manager or Architect will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Test or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.7 Commencement of Statutory Limitation Period

13.7.1 The statute of limitations applicable to this contract are as provided in Section 95.11 (3) (C), Florida Statutes.

ARTICLE 14

TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 Termination by the Contractor

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with Contractor, for any of the following reasons:

- .1 issuance of an order of a court or other public authority having jurisdiction;
- .2 an act of government, such as a declaration of national emergency, making material unavailable;
- .3 because the Construction Manager or Architect has not issued a certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.2, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;
- .4 if repeated suspensions, delays or interruptions by the Owner as described in Paragraph 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period whichever is less; or
- .5 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.

14.1.2 If one of the above reasons exists, the Contractor may, upon seven additional days' written notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

14.1.3 If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner, Construction Manager and Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.2.

14.2 Termination by the Owner for Cause

14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- .or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner, after consultation with the Construction Manager, and upon certification by the Architect that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, 72 hours written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 accept assignment of subcontracts pursuant to Paragraph 5.4; and

.3 finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Construction Manager's and Architect's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amounts to be paid to the Contractor or Owner, as the case may be, shall, upon application, be certified by the Architect after consultation with the Construction Manager, and this obligation for payment shall survive termination of the Contract.

14.3 Suspension by the Owner for Convenience

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

END OF SECTION 00750

FREEMAN JUSTICE CENTER

INSURANCE REQUIREMENTS

Worker's Compensation	Statutory Limits
Employers Liability	\$500,000/500,000/500,000
General Liability, including Premises Operation Blanket Contractual Expanded Definition of Property Damage Products and Completed Operations Personal Injury Underground, Explosion and Collapse (XCU)	\$5,000,000 Combigned Single Limit
Vehicle Liability (Owned, nonowned, and hired vehicles)	\$500,000 per Person \$1,000,000 per Occurance \$100,000 Property Damage \$1,000,000 Combigned Single Limit
Builders' Risk	Limits equal to the completed project

INDEMNIFICATION AND HOLD HARMLESS FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

The Contractor covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the contractor or any of its Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act or omission of the Contractor or its Subcontractor(s) in any tier, their employees, or agents.

In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the Contractor's failure to purchase or maintain the required insurance, the Contractor shall indemnify the County from any and all increased expenses resulting from such delay.

The first ten dollars (\$10.00) of remuneration paid to the Contractor is for the indemnification provided for above.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

**MONROE COUNTY, FLORIDA
RISK MANAGEMENT
POLICY AND PROCEDURES
CONTRACT ADMINISTRATION
MANUAL
General Insurance Requirements
for
Contractors and Subcontractors**

Prior to the commencement of work governed by this contract (including the pre-staging of personnel and material), the Contractor shall obtain, at his/her own expense, insurance as specified in the attached schedules, which are made part of this contract. The Contractor will ensure that the insurance obtained will extend protection to all Sub-Contractors engaged by the Contractor. As an alternative, the Contractor may require all Subcontractors to obtain insurance consistent with the attached schedules.

The Contractor will not be permitted to commence work governed by this contract (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the County as specified below. Delays in the commencement of work, resulting from the failure of the Contractor to provide satisfactory evidence of the required insurance, shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work commenced on the specified date and time, except for the Contractor's failure to provide satisfactory evidence.

The Contractor shall maintain the required insurance throughout the entire term of this contract and any extensions specified in any attached schedules. Failure to comply with this provision may result in the immediate suspension of all work until the required insurance has been reinstated or replaced. Delays in the completion of work resulting from the failure of the Contractor to maintain the required insurance shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work had not been suspended, except for the Contractor's failure to maintain the required insurance.

The Contractor shall provide, to the County, as satisfactory evidence of the required insurance, either:

- Certificate of Insurance
- or
- A certified copy of the actual insurance policy.

The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this contract.

All insurance policies must specify that they are not subject to cancellation, nonrenewal, material change, or reduction in coverage unless a written notice of thirty (30) days prior notification is given to the County by the insurer.

FREEMAN JUSTICE CENTER

The acceptance and/or approval of the Contractor's insurance shall not be construed as relieving the Contractor from any liability or obligation assumed under this contract or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies, except for Workers' Compensation.

In addition, the County will be named as an Additional Insured and Loss Payee on all policies covering County-owned property.

Any deviations from these General Insurance Requirements must be requested in writing on the County prepared form entitled "**Request for Waiver of Insurance Requirements**" and approved by Monroe County Risk Management.

FREEMAN JUSTICE CENTER

**BUILDER'S RISK
INSURANCE REQUIREMENTS
FOR
CONTRACT Freeman Justice Center**

**BETWEEN
MONROE COUNTY, FLORIDA
AND
The Tower Group, Inc.**

The Contractor shall be required to purchase and maintain, throughout the life of the contract, and until the project is accepted by the County, Builder's Risk Insurance on an All Risk of Loss form. Coverage shall include:

Theft	Aircraft
Windstorm	Vehicles
Hail	Smoke
Explosion	Fire
Riot	Collapse
Civil Commotion	Flood

The policy limits shall be no less than the amount of the finished project and coverage shall be provided on a completed value basis.

Property located on the construction premises, which is intended to become a permanent part of the building, shall be included as property covered.

The policy shall be endorsed permitting the County to occupy the building prior to completion without effecting the coverage.

The Monroe County Board of County Commissioners shall be named as Additional Insured and Loss Payee.

MONROE COUNTY, FLORIDA
RISK MANAGEMENT
POLICY AND PROCEDURES
CONTRACT ADMINISTRATION
MANUAL

WAIVER OF INSURANCE REQUIREMENTS

There will be times when it will be necessary, or in the best interest of the County, to deviate from the standard insurance requirements specified within this manual. Recognizing this potential, and acting on the advice of the County Attorney, the Board of County Commissioners has granted authorization to Risk Management to waive and modify various insurance provisions.

Specifically excluded from this authorization is the right to waive:

- **The County as being named as an Additional Insured**—If a letter from the Insurance Company (not the Agent) is presented, stating that they are unable or unwilling to name the County as an Additional Insured, Risk Management has been granted the authority to waive this provision.

and

- **The Indemnification and Hold Harmless provisions**

Waiving of insurance provisions could expose the County to economic loss. For this reason, every attempt should be made to obtain the standard insurance requirements. If a waiver or a modification is desired, a **Request for Waiver of Insurance Requirements** form should be completed and submitted for consideration with the proposal.

After consideration by Risk Management and if approved, the form will be returned, to the County Attorney who will submit the Waiver with the other contract documents for execution by the Clerk of the Courts.

Should Risk Management deny the Waiver Request, the other party may file an appeal with the County Administrator or the Board of County Commissioners, who retains the final decision-making authority.

MONROE COUNTY, FLORIDA

**Request For Waiver of
Insurance Requirements**

It is requested that the insurance requirements, as specified in the County's Schedule of Insurance Requirements, be waived or modified on the following contract:

Contractor:

Contract for:

Address of Contractor:

Phone:

Scope of Work:

Reason for Waiver:

Policies Waiver
will apply to:

Signature of Contractor:

Approved

Not Approved

Risk Management:

Date:

County Administrator appeal:

Approved

Not Approved

Date:

Board of County Commissioners appeal:

Approved

Not Approved

Meeting Date:

END OF SECTION 00400

FREEMAN JUSTICE CENTER

INSURANCE AGENT'S STATEMENT

I have reviewed the above requirements with the bidder named below. The following deductibles apply to the corresponding policy.

POLICY		DEDUCTIBLES
<u>WC04A-35311</u>	<u>WC</u>	<u>N/A</u>
<u>BCS0007281</u>	<u>GL</u>	<u>\$10,000 PER CLAIM</u>
<u>21UENTS0256</u>	<u>Auto</u>	<u>N/A</u>

Liability policies are ☒ Occurrence☐ Claims MadeSEITLIN
Insurance AgencyRolando L. Joseph
SignatureBIDDER'S STATEMENT

I understand the insurance that will be mandatory if awarded the contract and will comply in full with all the requirements.

The Tower Group, Inc.
Bidder[Signature]
Signature

END SECTION 00110

3/22/2004 2:48 PM

PROPOSAL FORM

00110-12

DRUG-FREE WORKPLACE FORM


The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that:

The Tower Group, Inc.

(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 (Florida Statutes) or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, or any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.


Bidders Signature

May 18, 2004

Date

LOBBYING AND CONFLICT OF INTEREST CLAUSE

SWORN STATEMENT UNDER ORDINANCE NO. 010-1990
MONROE COUNTY, FLORIDA

ETHICS CLAUSE

The Tower Group, Inc.

(Company)

"... warrants that he/it has not employed, retained or otherwise had act on his/its behalf any former County officer or employee in violation of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the County may, in its discretion, terminate this contract without liability and may also, in its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee".

(Signature)

Date: May 18, 2004

STATE OF: Florida

COUNTY OF: Broward

Subscribed and sworn to (or affirmed) before me on May 18, 2004
(date)

by Anthony J. Burke (name of affiant). He/She is personally known to me

or has produced _____ as
identification. (type of identification)Jennifer E. Enos
Commission # DD 023292
Expires June 22, 2005
Bonded Through
Atlantic Bonding Co., Inc.

NOTARY PUBLIC

NON-COLLUSION AFFIDAVIT

I, Anthony J. Burke of the city Davie, Florida
according to law on my oath, and under penalty of perjury, depose and say that:

1. I am President / C.E.O.
of the firm of The Tower Group, Inc.
the bidder making the Proposal for the project described in the notice for calling
for bids for: Freeman Justice Center - Jackson Square Complex
500 Whitehead Street Key West, Florida 33040
and that I executed the said proposal with full authority to do so;
2. the prices in this bid have been arrived at independently without collusion,
consultation, communication or agreement for the purpose of restricting
competition, as to any matter relating to such prices with any other bidder or with
any competitor;
3. unless otherwise required by law, the prices which have been quoted in this bid
have not been knowingly disclosed by the bidder and will not knowingly be
disclosed by the bidder prior to bid opening, directly or indirectly, to any other
bidder or to any competitor; and
4. no attempt has been made or will be made by the bidder to induce any other
person, partnership or corporation to submit, or not to submit, a bid for the
purpose of restricting competition;
5. the statements contained in this affidavit are true and correct, and made with full
knowledge that said project.

(Signature of Bidder)

May 18, 2004

(Date)

STATE OF: Florida

COUNTY OF: Broward

PERSONALLY APPEARED BEFORE ME, the undersigned authority, Anthony J. Burke

_____ who, after first being sworn by me, (name of individual signing) affixed his/her

signature in the space provided above on this 18th day of May

_____, 2004.


NOTARY PUBLIC

Jennifer E. Enos

Commission # DD 023292

Expires June 22, 2005

Notary Public

Atlantic Bonding Co., Inc.

My commission expires:

